

REMARKS

Applicants respond to the Office Action dated November 3, 2009. In this response, Applicants have amended claims 1 and claim 4 has been canceled without prejudice or disclaimer. New claims 11 and 12 have been added: claim 11 is based on claim 1 but excludes “lithium hydroxide” as a recited lithium compound and claim 12 specifies “lithium sulfate.” Following entry of these amendments, claims 1-3, 6, 11 and 12 are pending in the application.

Reconsideration of the present application is respectfully requested in view of the foregoing amendments and the remarks which follow.

Rejection Under 35 U.S.C. § 102

Claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by JP 09-050810 (hereafter “Kurasawa”). Applicants respectfully traverse this rejection for at least the reasons set forth below.

Kurasawa discloses an electrode active material for non-aqueous electrolyte lithium ion battery. The electrode active material includes a lithium-nickel composite oxide having a general formula $Li_xNi_yN_{2-x}O_2$, where N is an element except for Li, Ni and O; $0.8 < x < 1.2$; $0.8 < y < 1.2$; $0 \leq z < 0.2$; and a lithium-transition metal M composite oxide coated on the lithium-nickel composite oxide, where M is Co, Mn and/or Fe and may contain Ni.

The Examiner states that Kurasawa discloses the lithium compound covering nickel present on the surface of the oxide and comprising lithium hydroxide (*see* paragraph 21). However, Kurasawa fails to disclose the lithium compound comprising lithium hydroxide. In paragraph [0021], Kurasawa discloses a coating treatment to the surface of the lithium-nickel composite oxide particles with a mean particle diameter of $12\mu m$. First, 2.1 g of lithium hydroxide monohydrate and 14.6 g of cobalt nitrate hexahydrate are dissolved in 300g of ethanol, and 92.7 g of the lithium-nickel composite oxide particles is mixed and dispersed in the ethanol solution. Next, the dispersed solution is dried by a spray dryer in which a spray nozzle temperature is $100^{\circ}C$, followed by calcining the obtained powder at $700^{\circ}C$ (*see* an attached English machine-translation of JP09-050810).

As explained above, the Kurasawa’s lithium compound is a composite oxide

obtained by drying and calcining lithium hydroxide monohydrate and cobalt nitrate hexahydrate, and is not lithium hydroxide itself. Therefore, Kurasawa fails to disclose the lithium compound comprising lithium hydroxide.

Applicants respectfully submit that, for at least this reason, we believe that Kurasawa does not disclose all of the features of claim 1, and that Kurasawa, therefore, cannot properly anticipate claim 1.

Rejections Under 35 U.S.C. § 103

1. Claims 1, 3, 4 and 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,071,649 (hereafter "Mao") in view of U.S. Patent No. 5,538,814 (hereafter "Kamauchi"). Applicants respectfully traverse this rejection for at least the reasons set forth below.

Applicants respectfully submit that the amendment to claim 1 to exclude "lithium phosphate" overcomes these rejections. Specifically, Mao discloses a method of making an electrode material which is LiNiO_2 coated with LiCoO_2 . Kamauchi discloses a positive electrode active material which comprises at least one compound selected from the group consisting of lithium phosphate, lithium-cobalt phosphate, cobalt oxide, and lithium-cobalt oxide. However, Mao and Kamauchi fails to teach or suggest the lithium compound comprising at least one selected from the group listed in amend claim 1.

For at least this reason, we believe that Mao and Kamauchi do not teach or suggest all of the features of claim 1 and that Mao and Kamauchi therefore do not render claim 1 and dependent claims 2, 3 and 6 thereto to be unpatentable.

2. Also, claim 2 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kurasawa. In addition, Kurasawa does not teach or suggest all of the features of claim 2 as discussed above in relation to claim 1, and Kurasawa therefore does not render claim 2 to be unpatentable.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that all of the pending claims are now in condition for allowance. An early notice to this effect is

earnestly solicited. If there are any questions regarding the application, the Examiner is invited to contact the undersigned at the number below.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date January 25, 2010

By Michael D. Kaminski

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5490
Facsimile: (202) 672-5399

Michael D. Kaminski
Attorney for Applicant
Registration No. 32,904